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**ATTORNEY FOR PLAINTIFF**  
**UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**BILLINGS DIVISION**

<b>UNITED STATES OF AMERICA,</b>  <b>Plaintiff,</b>  <b>vs.</b>  <b>STEPHEN MICHAEL MILLER,</b>  <b>Defendant.</b>	<b>CR 17-146-BLG-SPW</b>  <b>OFFER OF PROOF</b>
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The United States of America, represented by Assistant United States Attorney Colin M. Rubich, files its offer of proof in anticipation of the change of plea hearing set in this case on September 28, 2018.

## **THE CHARGE**

The defendant, Stephen Michael Miller, is charged by indictment with conspiracy to possess with intent to distribute methamphetamine, in violation of 21 U.S.C. § 846 (Count I) and possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Count II).

## **PLEA AGREEMENT**

There is a plea agreement in this case. Miller will plead guilty to the superseding information which charges conspiracy to possess with intent to distribute methamphetamine, in violation of 21 U.S.C. § 846. The United States will move to dismiss the indictment at sentencing if the Court accepts the plea agreement. The United States presented all formal plea offers to Miller in writing. The plea agreement entered into by the parties and filed with the Court represents, in the government's view, the most favorable offer extended to the defendant. *See Missouri v. Frye*, 566 U.S. 134 (2012).

## **ELEMENTS OF THE CHARGE**

In order for Miller to be found guilty of conspiracy to possess with intent to distribute methamphetamine in violation of 21 U.S.C. § 846, the United States must prove each of the following elements beyond a reasonable doubt:

**First**, beginning on or about January 2014, and continuing until on or about August 21, 2015, there was an agreement between two or more people to distribute methamphetamine; and

**Second**, the defendant entered the agreement knowing of its objectives and intending to accomplish at least one of those objectives.

### **PENALTY**

The charge contained in the superseding information carries a maximum punishment of 20 years imprisonment, a \$1,000,000 fine, three years of supervised release, and a \$100 special assessment.

### **ANTICIPATED EVIDENCE**

If this case were tried in United States District Court, the United States would prove the following:

Between 2013 and August 21, 2015, there was a conspiracy to transport methamphetamine through the United States mail and distribute it in the Miles City area. Several conspirators have been indicted and sentenced. One of those co-conspirators, James Toms, received his methamphetamine through the post office.<sup>1</sup> The defendant, Stephen Michael Miller, was the postmaster of the Miles City post office. Miller used his position as postmaster to warn Toms that the police had been monitoring mail sent to his residence. On one occasion, Miller intercepted a

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<sup>1</sup> On April 26, 2018, this Court sentenced James Toms to 96 months imprisonment and five years of supervised release for possession with intent to distribute methamphetamine. CR 17-20-BLG-SPW.

package for Toms that contained approximately four ounces of methamphetamine. Miller delivered the package to Toms in exchange for one ounce of methamphetamine.

DATED this 24th day of September, 2018.

KURT G. ALME  
United States Attorney

/s/ Colin M. Rubich  
COLIN M. RUBICH  
Assistant U.S. Attorney